IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FOSTER WHEELER NORTH AMERICA CORP.,	§	
Plaintiff	§	
	§	
-against-	§	
	§	
M/V MONIUSZKO,	§	**C.A. No. ___________**
her engines, tackle, boilers, etc.	§	**In Admiralty**
	§	
-and against-	§	
	§	
CHINESE-POLISH JOINT STOCK SHIPPING COMPANY (CHIPOLBROK) and MONIUSZKO MARITIME CO. LTD.,	§	
Defendants	§	

COMPLAINT

TO THE COURT:

1. Plaintiff herein, by its attorneys, Hill Rivkins & Hayden LLP, complaining of the above-named vessel and Defendants, alleges upon information and belief:

I.

2. This is an admiralty or maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and 28 U.S.C. § 1333.

II.

3. At and during all the times hereinafter mentioned, Plaintiff had and now has the legal status and principal offices and places of business stated in Schedule A hereto annexed and by this reference made a part hereof.

III.

4. At and during all times hereinafter mentioned, Defendants had and now have the legal status and offices and places of business stated in Schedule A, and were and now are engaged in business as common carriers of merchandise by water for hire, and owned, operated, managed, chartered, and controlled the above-named vessel which now is or will be within the jurisdiction of this Court during the pendency of this action.

IV.

5. On or about the date and at the port of shipment stated in Schedule A, there was delivered to the vessel and Defendants, in good order and condition, the shipment described in Schedule A, which the vessel and Defendants received, accepted and agreed to transport for certain consideration to the port of destination stated in Schedule A.

V.

6. The vessel arrived at the port of destination described in Schedule A where the cargo was delivered short or otherwise damaged.

VI.

7. By reason of the premises, the above-named vessel and Defendants breached, failed and violated their duties and obligations as common carriers and were otherwise at fault.

VII.

8. Plaintiff was the shipper, consignee or owner of the shipment as described in Schedule A, and brings this action on its own behalf and, as agent and trustee, on behalf of and for the interest of all parties who may be or become interested in the shipment, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

VIII.

9. Plaintiff has duly performed all duties and obligations on its part to be performed.

X.

10. By reason of the premises, Plaintiff has sustained damages, as nearly as same can now be estimated, no part of which has been paid although duly demanded, in the amount of THIRTY THOUSAND AND NO/100 DOLLARS ($30,000.00).

XI.

11. All and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this Honorable Court.

WHEREFORE, Plaintiffs pray:

1. That summons in due form of law may issue against Defendants;

2. That a judgment may be entered in favor of Plaintiff against Defendants, one or more of them, for the amount of Plaintiff's damages and attorney's fees, together with interest and the costs and disbursements of this action;

3. That process in due form of law according to the practice of this Court in causes of admiralty or maritime jurisdiction may issue against the motor vessel, her engines, etc., and that all persons having or claiming any interest therein be cited to appear and answer under oath all and singular the matters aforesaid, and this Court will be pleased to pronounce a judgment in favor of Plaintiff for its damages and attorneys' fees, together with interest, costs and disbursements, and the motor vessel may be condemned and sold to pay therefore; and

4. That this Court will grant to Plaintiff such other and further relief as may be just and proper.

Respectfully submitted,

ROBERT G. MOLL
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ATTORNEY FOR PLAINTIFF

OF COUNSEL:

HILL RIVKINS & HAYDEN LLP

VERIFICATION

STATE OF TEXAS §
§
COUNTY OF HARRIS §

Robert G. Moll, being duly sworn, deposes and says:

I am an attorney with the firm of Hill Rivkins & Hayden LLP, attorneys for Plaintiff. I am over twenty-one (21) years of age and fully competent to make this Verification. I have read the foregoing Complaint and know its contents. The Complaint is true to my knowledge, except as to the matters stated in the Complaint to be based on information and belief, and as to those matters, I believe them to be true.

The reason this Verification is made by me and not by Plaintiff is that Plaintiff is a corporation, none of whose officers are now within this District.

The source of my information and the grounds for my belief as to those matters stated in the Complaint, to be alleged on information and belief, are documents and records in my files.

Robert Glen Moll

ROBERT G. MOLL

Subscribed and sworn to before me, the undersigned notary public, on this 25th day of September, 2009, to certify which witness my hand and official seal.

Rosa Landin

Notary Public, State of Texas

ROSA LANDIN
MY COMMISSION EXPIRES
March 26, 2012

SCHEDULE A

Legal Status and Place of Business of Parties

Plaintiff, **Foster Wheeler North America Corp.**, was and now is a foreign corporation or other business entity with an office and place of business in New Jersey.

Defendant, **M/V MONIUSZKO**, is a general cargo vessel sailing under the flag of Malta. The vessel was built in 1989, and its gross tonnage is 13,938 metric tons. Its IMO number is 8513730.

Defendant, **Chinese-Polish Joint Stock Shipping Company (CHIPOLBROK)**, is a foreign corporation or other business entity, with power to sue and be sued, which regularly engages in business in Texas and the United States as a common carrier of goods by water for hire, which may be served through its US general agent, Chipolbrok America, Inc., at its home office address:

16945 Northchase Drive, Suite 2300
Houston, TX 77060

Defendant, **Moniuszko Maritime Co. Ltd.**, is a foreign corporation or other business entity, with power to sue and be sued, which regularly engages in business in Texas and the United States as a common carrier of goods by water for hire, which may be served through its US general agent, Chipolbrok America, Inc., at its home office address:

16945 Northchase Drive, Suite 2300
Houston, TX 77060

Description of Shipment

Vessel: M/V MONIUSZKO

Date of Shipment: September 26, 2008

Ports of Loading: Shanghai, China

Port of Discharge: Houston, Texas

Shipper: Shanghai Chinehwa Heavy Industries Co., Ltd.

Consignee: Foster Wheeler North America Corp.

Description of Shipment: Structural Steel

Nature of Loss or Damage: Physical Damage

Amount: $30,000.00